

House Daily Reader

Monday, February 13, 2006

Bills Included				
HB 1039	HB 1189	HJR 1001	HJR 1003	SB 2
SB 20	SB 21	SB 23	SB 39	SB 78
SB 107	SB 118	SB 152	SB 185	SB 207

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0325

SENATE ENGROSSED NO. **HB 1039** - 02/09/2006

Introduced by: The Committee on Health and Human Services at the request of the
Department of Human Services

1 FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the disposition of
2 funds collected on local exchange service lines, cellular telephones, and radio pager devices.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 49-31-51 be amended to read as follows:

5 49-31-51. There is hereby imposed an access fee of fifteen cents per local exchange service
6 line per month, fifteen cents per cellular telephone per month in accordance with the provisions
7 provided in subdivision 34-45-1(7), and fifteen cents per radio pager device per month to pay
8 for the program established in § 49-31-47. The access fee shall be paid by each local exchange
9 subscriber to a local exchange service, or by each cellular telephone or radio pager service
10 subscriber to the service provider, unless the subscriber is otherwise exempt from taxation. The
11 access fee shall be reported as a separate line or service and collected on the regular monthly
12 bill by each local exchange telecommunications company or other service provider operating
13 in this state. On or before the last day of the month following each two-month period, every
14 telecommunications company providing local exchange service or other service provided
15 specified in this section shall remit to the Department of Revenue and Regulation on forms



1 furnished by the department the amount of the access fee collected for that two- month period.
2 The secretary of revenue and regulation may grant an extension of not more than five days for
3 filing a remittance. The Department of Revenue and Regulation shall deposit ninety percent of
4 the money received under §§ 49-31-47 to 49-31-56, inclusive, into the telecommunication fund
5 for the deaf and ten percent in the telecommunication fund for other disabilities. The balance
6 in each fund in excess of an average of three months operating expenditures from the previous
7 state fiscal year may be used by the Department of Human Services to purchase
8 telecommunication assistive devices, communication aids and devices, home modifications and
9 assistive devices, and infrastructure and operational expenses to enhance communication
10 capacity for persons with disabilities and operational expenses for interpreter certification and
11 services for the deaf.

12 Section 2. The provisions of this Act are repealed on July 1, 2007.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

753M0523

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB 1189** - 02/07/2006

Introduced by: Representatives Roberts, Cutler, Gillespie, Haley, Halverson, Murschel,
Street, and Thompson and Senators Kelly, Adelstein, Dempster, and Koetzle

1 FOR AN ACT ENTITLED, An Act to exempt the value of motor vehicles donated to certain
2 nonprofit corporations from state taxes.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-5B-2 be amended by adding thereto a NEW SUBDIVISION to read as
5 follows:

6 Any motor vehicle transferred without consideration to any South Dakota nonprofit
7 corporation which will donate the motor vehicle to a needy family or individual.

8 Section 2. That § 32-6B-5 be amended by adding thereto a NEW SUBDIVISION to read as
9 follows:

10 Any South Dakota nonprofit corporation which gives a donated motor vehicle to a needy
11 family or individual.



State of South Dakota

EIGHTY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2006

671M0138

SENATE ENGROSSED NO. **HJR 1001** - 02/09/2006

Introduced by: Representatives Michels, Haley, Heineman, Hunhoff, and Putnam and Senators Olson (Ed), Broderick, Gray, Peterson (Jim), and Schoenbeck at the request of the Constitutional Revision Commission

1 A JOINT RESOLUTION, To revise and establish certain constitutional provisions regarding
2 the lieutenant governor and the presiding officers of the Senate and House of
3 Representatives.

4 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH
5 DAKOTA, THE SENATE CONCURRING THEREIN:

6 Section 1. That at the next general election held in the state, the following amendments to
7 Article III and Article IV of the Constitution of the State of South Dakota as set forth in section
8 2 and 3 of this Joint Resolution, which is hereby agreed to, shall be submitted to the electors of
9 the state for approval.

10 Section 2. That Article III be amended by adding thereto a NEW SECTION to read as
11 follows:

12 § 33. The members of the senate shall elect one member to preside as president of the
13 senate.

14 The members of the house of representatives shall elect one member to preside as speaker
15 of the house of representatives.



1 Section 3. That Article IV, section 5 of the Constitution of the State of South Dakota, be
2 amended to read as follows:

3 § 5. ~~The lieutenant governor shall be president of the senate but shall have no vote unless~~
4 ~~the senators be equally divided.~~ The lieutenant governor shall perform the duties and exercise
5 the powers that may be delegated to him by the Governor.

6 Section 4. The provisions of sections 2 and 3 of this Joint Resolution are effective January 1,
7 2011.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

257M0080

SENATE ENGROSSED NO. **HJR 1003** - 02/09/2006

Introduced by: Representatives Michels, Haley, Heineman, Hunhoff, and Putnam and
Senators Olson (Ed), Broderick, Gray, Peterson (Jim), and Schoenbeck at the
request of the Constitutional Revision Commission

1 A JOINT RESOLUTION, To revise certain constitutional provisions regarding the Legislature.
2 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE STATE OF SOUTH
3 DAKOTA, THE SENATE CONCURRING THEREIN:

4 Section 1. That at the next general election, the following amendments to Article III of the
5 Constitution of the State of South Dakota, as set forth in sections 2 to 10, inclusive, of this Joint
6 Resolution, which are hereby agreed to, shall be submitted to the electors of the state for
7 approval.

8 Section 2. That Article III, section 2 of the Constitution of the State of South Dakota, be
9 amended to read as follows:

10 § 2. ~~After the Legislature elected for the years 1937 and 1938 the~~ The number of members
11 of the house of representatives shall not be less than fifty nor more than seventy-five, and the
12 number of members of the senate shall not be less than twenty-five nor more than thirty-five.

13 ~~The sessions of the Legislature shall be biennial except as otherwise provided in this~~
14 ~~Constitution.~~

15 Section 3. That Article III, section 6 of the Constitution of the State of South Dakota, be



1 amended to read as follows:

2 § 6. The terms of office of the members of the Legislature shall be two years; they shall
3 receive for their services the salary fixed by law under the provisions of § 2 of article XXI of
4 this Constitution, ~~and five cents for every mile of necessary travel in going to and returning from~~
5 ~~the place of meeting of the Legislature on the most usual route.~~

6 No person may serve more than four consecutive terms or a total of eight consecutive years
7 in the senate and more than four consecutive terms or a total of eight consecutive years in the
8 house of representatives. However, this restriction does not apply to partial terms to which a
9 legislator may be appointed ~~or to legislative service before January 1, 1993.~~

10 A regular session of the Legislature shall ~~be held in each odd-numbered year and shall not~~
11 ~~exceed forty legislative days, excluding Sundays, holidays, and legislative recess, except in~~
12 ~~cases of impeachment, and members~~ not exceed forty legislative days in each odd-numbered
13 year and shall not exceed thirty-five legislative days in each even-numbered year except in cases
14 of impeachment. Sundays, holidays, and days of legislative recess shall not be included as
15 legislative days. Members of the Legislature shall receive no other pay or perquisites except
16 salary, expenses, per diem, and mileage as provided by law.

17 ~~A regular session of the Legislature shall be held in each even-numbered year beginning~~
18 ~~with the year 1964 and shall not exceed thirty-five legislative days, excluding Sundays, holidays~~
19 ~~and legislative recess, except in cases of impeachment, and members of the Legislature shall~~
20 ~~receive no other pay or perquisites except salary and mileage.~~

21 Section 4. That Article III, section 13 of the Constitution of the State of South Dakota, be
22 amended to read as follows:

23 § 13. Each house shall keep a journal of its proceedings and publish the same ~~from time to~~
24 ~~time, except such parts as require secrecy, and the~~ as provided by law. The yeas and nays of

members on any question shall be taken at the desire of one-sixth of those present and entered upon the journal.

Section 5. That Article III, section 14 of the Constitution of the State of South Dakota, be amended to read as follows:

§ 14. In all elections to be made by the Legislature the members thereof shall vote ~~viva voce~~ and their votes shall be entered in the journal.

Section 6. That Article III, section 15 of the Constitution of the State of South Dakota, be amended to read as follows:

§ 15. ~~The sessions of each house and of the committee of the whole shall be open, unless when the business is such as ought to be kept secret~~ All legislative sessions and joint sessions shall be open to the public unless a two-thirds majority of the membership declares the business is such as ought to be kept secret. No votes may be taken at any session or meeting closed to the public.

Section 7. That Article III, section 17 of the Constitution of the State of South Dakota, be amended to read as follows:

§ 17. Every bill shall be ~~read twice~~ entered upon the journal, by number and title ~~once~~, when introduced; and ~~once upon~~ shall be read, by number and title, prior to final passage, ~~but one reading at length may be demanded at any time before final passage.~~

Section 8. That Article III, section 23 of the Constitution of the State of South Dakota, be amended to read as follows:

§ 23. The Legislature is ~~prohibited from enacting any private or special laws in the following cases:~~

—1. Granting divorces:

—2. ~~Changing the names of persons or places, or constituting one person the heir at law of~~

1 ~~another.~~

2 ~~—3. Locating or changing county seats.~~

3 ~~—4. Regulating county and township affairs.~~

4 ~~—5. Incorporating cities, towns and villages or changing or amending the charter of any town,~~
5 ~~city or village, or laying out, opening, vacating or altering town plats, streets, wards, alleys and~~
6 ~~public ground.~~

7 ~~—6. Providing for sale or mortgage of real estate belonging to minors or others under~~
8 ~~disability.~~

9 ~~—7. Authorizing persons to keep ferries across streams wholly within the state.~~

10 ~~—8. Remitting fines, penalties or forfeitures.~~

11 ~~—9. Granting to an individual, association or corporation any special or exclusive privilege,~~
12 ~~immunity or franchise whatever.~~

13 ~~—10. Providing for the management of common schools.~~

14 ~~—11. Creating, increasing or decreasing fees, percentages or allowances of public officers~~
15 ~~during the term for which said officers are elected or appointed.~~

16 ~~—But the Legislature may repeal any existing special law relating to the foregoing~~
17 ~~subdivisions.~~

18 ~~—In all other cases where a general law can be applicable no special law shall be enacted may~~
19 ~~not pass any special or local law when a general law can be made applicable. Whether a general~~
20 ~~law can be made applicable shall be a matter for judicial determination.~~

21 Section 9. That Article III, section 29 of the Constitution of the State of South Dakota, be
22 amended to read as follows:

23 § 29. Notwithstanding any general or special provisions of the Constitution, in order to
24 insure continuity of state and local governmental operations in periods of emergency resulting

1 from ~~disasters~~ a natural or man-made disaster or a disaster caused by enemy attack, the
2 Legislature shall have the power and the immediate duty ~~(1)~~ to provide for prompt and
3 temporary succession to the powers and duties of public offices, of whatever nature and whether
4 filled by election or appointment, the incumbents of which may become unavailable for carrying
5 on the powers and duties of such offices, and ~~(2)~~ to adopt such other measures as may be
6 necessary and proper for insuring the continuity of governmental operations. In the exercise of
7 the powers hereby conferred the Legislature shall in all respects conform to the requirements
8 of this Constitution except to the extent that in the judgment of the Legislature so to do would
9 be impracticable or would admit of undue delay.

10 Section 10. That Article III, section 32 of the Constitution of the State of South Dakota, be
11 repealed:

12 § 32. ~~Commencing with the 1992 election, no person may be elected to more than two~~
13 ~~consecutive terms in the United States senate or more than six consecutive terms in the United~~
14 ~~States house of representatives.~~

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

589M0129

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 2** - 01/27/2006

Introduced by: Senators Schoenbeck, Bogue, and Moore and Representatives Michels,
Hargens, and Rhoden

1 FOR AN ACT ENTITLED, An Act to appropriate money for the creation of a circuit court
2 judgeship in the second judicial circuit.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby appropriated from the state general fund the sum of one hundred
5 ninety-one thousand two dollars (\$191,002), or so much thereof as may be necessary, to the
6 Unified Judicial System for the creation of a circuit court judgeship in the second judicial
7 circuit. The sum of one hundred seventy-five thousand four hundred seventy-three dollars
8 (\$175,473) appropriated by this section may be used for personal services and benefits. The sum
9 of fifteen thousand five hundred twenty-nine dollars (\$15,529) appropriated by this section may
10 be used for operational expenses.

11 Section 2. There is hereby approved 2.0 FTE for a circuit court judge position and support
12 staff in the second judicial circuit.

13 Section 3. The state court administrator shall approve vouchers and the state auditor shall
14 draw warrants to pay expenditures authorized by this Act.

15 Section 4. Any amounts appropriated in this Act not lawfully expended or obligated by



1 June 30, 2007, shall revert in accordance with § 4-8-21.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

527M0311

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 20** - 01/27/2006

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a new dairy
2 manufacturing plant at South Dakota State University and to make an appropriation therefor.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
5 equipping, and maintaining of, including heating air conditioning, plumbing, water, sewer,
6 electric facilities, architectural and engineering services, asbestos abatement, and such other
7 services as may be required to construct, a new dairy manufacturing plant at South Dakota State
8 University in Brookings, in Brookings County, at an estimated cost of four million dollars.

9 Section 2. There is hereby appropriated to the Board of Regents four million dollars
10 (\$4,000,000), or so much thereof as may be necessary, from private donations and grants
11 received by South Dakota State University to construct the facility described in section 1 of this
12 Act.

13 Section 3. The Board of Regents may accept, transfer, and expend any funds obtained for
14 these purposes from federal sources, gifts, contributions, or any other source, all of which shall
15 be deemed appropriated to the project authorized by this Act.



1 Section 4. The design and construction of the facility approved by this Act shall be under
2 the general supervision of the Bureau of Administration as provided in § 5-14-2. The
3 commissioner of the Bureau of Administration and the executive director of the Board of
4 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures
5 authorized by this Act.

6 Section 5. No general fund dollars may be used for the maintenance and repair of the facility
7 authorized by this Act.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

527M0314

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 21** - 01/27/2006

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a manure
2 separator for the South Dakota Agricultural Experiment Station and to make an
3 appropriation therefor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
6 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,
7 electric facilities, architectural and engineering services, asbestos abatement, and such other
8 services as may be required to construct, a manure separator for the South Dakota Agricultural
9 Experiment Station, located at Brookings, in Brookings County, at an estimated cost of one
10 hundred fourteen thousand dollars.

11 Section 2. There is hereby appropriated to the Board of Regents one hundred fourteen
12 thousand dollars (\$114,000), or so much thereof as may be necessary, from federal and grant
13 funds awarded to the South Dakota Agricultural Experiment Station to construct the facility
14 described in section 1 of this Act.

15 Section 3. The Board of Regents may accept, transfer , and expend any funds obtained for



1 these purposes from federal sources, gifts, contributions, or any other source, all of which shall
2 be deemed appropriated to the project authorized by this Act.

3 Section 4. The design and construction of the facility approved by this Act shall be under
4 the general supervision of the Bureau of Administration as provided in § 5-14-2. The
5 commissioner of the Bureau of Administration and the executive director of the Board of
6 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures
7 authorized by this Act.

8 Section 5. No general fund dollars may be used for the maintenance and repair of the facility
9 authorized by this Act.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

527M0312

SENATE APPROPRIATIONS COMMITTEE

ENGROSSED NO. **SB 23** - 01/27/2006

Introduced by: The Committee on Appropriations at the request of the Board of Regents

1 FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to construct a livestock
2 feed storage room as an addition to the livestock feed facility at the South Dakota
3 Agricultural Experiment Station Southeast Research Farm and to make an appropriation
4 therefor.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. The Board of Regents may contract for the construction, completion, furnishing,
7 equipping, and maintaining of, including heating, air conditioning, plumbing, water, sewer,
8 electric facilities, architectural and engineering services, asbestos abatement, and such other
9 services as may be required to construct, a livestock feed storage room as an addition to the
10 livestock feed facility at the South Dakota Agricultural Experiment Station Southeast Research
11 Farm, in Union County, at an estimated cost of seventeen thousand dollars.

12 Section 2. There is hereby appropriated to the Board of Regents seventeen thousand dollars
13 (\$17,000), or so much thereof as may be necessary, from the South Dakota Agricultural
14 Experiment Station activity funds to construct the facility described in section 1 of this Act.

15 Section 3. The Board of Regents may accept, transfer, and expend any funds obtained for



1 these purposes from federal sources, gifts, contributions, or any other source, all of which shall
2 be deemed appropriated to the project authorized by this Act.

3 Section 4. The design and construction of the facilities approved by this Act shall be under
4 the general supervision of the Bureau of Administration as provided in § 5-14-2. The
5 commissioner of the Bureau of Administration and the executive director of the Board of
6 Regents shall approve vouchers and the state auditor shall draw warrants to pay expenditures
7 authorized by this Act.

8 Section 5. Notwithstanding the provisions of § 13-51-2, no money from the state general
9 fund, student tuition fees, nor the educational facilities fund may be used to finance the
10 maintenance and repair of the facilities specified in this Act.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0350

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 39** - 01/17/2006

Introduced by: The Committee on Commerce at the request of the Department of Public Safety

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding petroleum and motor
2 fuels testing, quality, and labeling.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 37-2-5 be amended to read as follows:

5 37-2-5. Terms used throughout §§ 37-2-5 to 37-2-24, inclusive, mean:

6 (1) "Alcohol," a colorless volatile flammable liquid containing no more than 1.25 percent
7 of water used for the purpose of blending or mixing with gasoline for use in motor
8 vehicles and commonly known as alcohol, ethanol or methanol;

9 (2) "ASTM," the American Society for Testing and Materials;

10 (3) "Aviation gasoline," a volatile hydrocarbon fuel free from suspended water and
11 sediment matter and that is suitable for use as a fuel in an aviation spark ignition
12 internal combustion engine designed for use in an aircraft;

13 (3A) "Biodiesel," a fuel comprised of mono-alkyl esters of long chain fatty acids derived
14 from vegetable oils or animal fats, designated B100, and meeting the requirements
15 of the American Society of Testing and Materials D 6751 as of January 1, 2005, and



1 is registered with the United States Environmental Protection Agency as a fuel and
2 fuel additive under section 211(b) of the Clean Air Act in effect on January 1, 2006;

3 (3B) "Biodiesel blend," a special blended fuel comprised of at least two percent by volume
4 of biodiesel blended with petroleum-based diesel fuel, designated BXX. In the
5 abbreviation BXX, the XX represents the volume percentage of biodiesel fuel in the
6 blend;

7 (4) "Department," the Department of Public Safety;

8 (5) "Diesel fuel," a refined middle distillate hydrocarbon fuel free from suspended water
9 and sediment matter that is suitable for use as a fuel in a ~~diesel~~ compression-ignition
10 (diesel) internal combustion engine;

11 (5A) "Ether," methyl tertiary butyl ether;

12 (6) "Flash test" and "flash point," the flash point as determined by the method of the
13 American Society for Testing Materials, using the instrument known as the Tagliabue
14 closed cup tester;

15 (7) "Gasoline," a volatile hydrocarbon fuel free from suspended water and sediment
16 matter that is practicable and suitable used as fuel in a spark ignition internal
17 combustion engine;

18 (8) "Inspector," the secretary of the Department of Public Safety or any deputy or
19 assistant appointed by the secretary for the purpose of enforcing the provisions of this
20 chapter;

21 (9) "Kerosene," a hydrocarbon fuel intended for use in heating and illumination and
22 having an American Petroleum Institute gravity of not less than forty degrees.
23 Kerosene shall also include coal oil and burner oil;

24 (9A) "NIST," the National Institute of Standards and Technology;

(10) "Petroleum products," gasoline, alcohol blended fuels, kerosene, diesel fuel, aviation gasoline, burner oil, naphtha and lubricating oils.

Section 2. That § 37-2-6 be amended to read as follows:

37-2-6. The secretary of the Department of Public Safety may, pursuant to chapter 1-26, and in general conformity with ASTM and NIST standards in effect on January 1, 2005, promulgate rules:

(1) Establishing standards for the maximum volume percentages of ethanol, methanol, ether, and cosolvents in alcohol blended fuels;

(2) Establishing a program for and prescribing the methods to be used for the inspection and testing of alcohol blended fuels ~~and~~ petroleum products, biodiesel, and biodiesel blends;

(3) Requiring labeling of devices dispensing alcohol blended fuels, biodiesel, and biodiesel blends;

(4) Establishing standards setting the specifications and tolerance requirements for petroleum products, biodiesel, and biodiesel blends; and

(5) Regulating the filtering system to be used on devices dispensing alcohol blended fuels.

Section 3. That § 37-2-7 be amended to read as follows:

37-2-7. Specifications and methods for the examination and test of petroleum products shall be jointly determined by the Division of Commercial Inspection and Licensing and the director of ~~laboratories~~ the State Health Laboratory and shall be based upon ~~nationally recognized~~ standards from the American Society for Testing and Materials and the National Institute for Standards and Technology as of January 1, 2005. ~~When so determined, and If adopted and~~

1 ~~published as rules and regulations~~ of the division in accordance with the provisions of chapter
2 1-26, ~~such~~ the specifications shall be the specifications for such petroleum products sold in this
3 state and official tests of ~~such~~ the petroleum products shall be based upon test specifications so
4 determined, adopted, and promulgated.

5 Section 4. That § 37-2-8 be amended to read as follows:

6 37-2-8. The director of ~~laboratories~~ the State Health Laboratory, or other qualified
7 laboratory, shall make ~~such~~ an analysis as may be requested by the secretary of the Department
8 of Public Safety. Distillation tests shall be made in accordance with the methods for ~~such~~ the
9 tests adopted by the American Society for Testing and Materials.

10 Section 5. That § 37-2-23 be repealed.

11 ~~— 37-2-23. Any inspector having knowledge of a violation of any of the provisions of §§ 37-2-~~
12 ~~5 to 37-2-24, inclusive, must immediately enter complaint before a court of competent~~
13 ~~jurisdiction against the person so offending, and in case of neglect to enter such complaint, such~~
14 ~~inspector shall be punished as provided in § 37-2-16.~~

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

664M0513

SENATE ENGROSSED NO. **SB 78** - 01/30/2006

Introduced by: Senator Knudson and Representative Michels

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the submission of
2 direct legislation to a vote of the people at a general election.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 2-1-2 be amended to read as follows:

5 2-1-2. The petition shall be filed in the ~~office of the secretary of state~~ Office of the Secretary
6 of State by the first Tuesday in ~~May~~ April of a general election year for submission to the
7 electors at the next general election.

8 Section 2. That § 2-1-6.2 be amended to read as follows:

9 2-1-6.2. The full text of any initiative petition, referred law petition, or initiated
10 constitutional amendment petition, the date of the general election at which the initiated law or
11 initiated constitutional amendment is to be submitted, and the names and addresses of the
12 petition sponsors shall be filed with the secretary of state prior to circulation for signatures. The
13 signer's post office box number may be given in lieu of a street address if the signer lives within
14 a municipality of the second or third class. The form of the petitions shall be prescribed by the
15 State Board of Elections. For any initiated constitutional amendment petition, no signatures may
16 be obtained more than twenty-four months preceding the general election that was designated



1 at the time of filing of the full text. For any initiative petition, no signatures may be obtained
2 more than ~~eighteen~~ nineteen months preceding the general election that was designated at the
3 time of filing of the full text. An initiative petition and an initiated constitutional amendment
4 petition shall be filed with the secretary of state by the date set forth in § 2-1-2 or 2-1-2.1, as
5 applicable. All sections of any petition filed under this chapter shall be filed with the secretary
6 of state simultaneously together with a sworn affidavit on forms promulgated by the State Board
7 of Elections, signed by two-thirds of the sponsors stating that the documents filed constitute the
8 entire petition and to the best of their knowledge contain a sufficient number of signatures.

9 Section 3. That § 12-13-9 be amended to read as follows:

10 12-13-9. Before the ~~fourth~~ third Tuesday in ~~July~~ May, the attorney general shall deliver to
11 the secretary of state ~~the~~ an attorney general's statement; for each proposed amendment to the
12 Constitution and each initiated measure. The attorney general's statement for each referred
13 measure shall be delivered to the secretary of state before the second Tuesday in July. The
14 attorney general's statement shall consist of the title, the explanation, and a clear and simple
15 recitation of the effect of a "Yes" or "No" vote. The explanation shall ~~state succinctly~~ be an
16 objective, clear and simple summary to educate the voters of the purpose and ~~legal~~ effect of the
17 proposed amendment to the Constitution, the initiated measure, or the referred law. The
18 ~~explanation shall be a clear and simple summary of the issue and~~ attorney general shall include
19 a description of the legal consequences of the proposed amendment, the initiated measure, or
20 the referred law, including the likely exposure of the state to liability if the proposed
21 amendment, the initiated measure, or the referred law is adopted. The explanation may not
22 exceed two hundred words in length. On the printed ballots, the title shall be followed by the
23 explanation and the explanation shall be followed by the recitation.

24 Section 4. That chapter 12-13 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 In the year 2006, the attorney general's statement for each proposed amendment to the
3 Constitution and each initiated measure shall be delivered to the secretary of state before the
4 second Tuesday in July.

5 Section 5. That § 12-13-23 be amended to read as follows:

6 12-13-23. The secretary of state shall ~~prepare and~~ distribute public information on any
7 constitutional amendment, initiated, or referred measure submitted to the electors for approval.
8 The secretary of state shall compile the public information by printing a statement in support
9 of the constitutional amendment, initiated, or referred measure written by its proponents, if any
10 can be identified, and a statement against the constitutional amendment, initiated, or referred
11 measure written by its opponents, if any can be identified. The secretary of state is not
12 responsible for the contents, objectivity, or accuracy of the statements written by the proponents
13 and opponents.

14 Section 6. That chapter 12-13 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 The secretary of state shall, within five days of delivery from the attorney general, make the
17 attorney general's statement for each proposed amendment to the Constitution, each initiated
18 measure, and each referred law available to any person upon request.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

771M0088

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 107** - 01/24/2006

Introduced by: Senators Olson (Ed), Dempster, Duniphan, Hansen (Tom), Knudson, and Sutton (Duane) and Representatives Sebert, Buckingham, Cutler, Hennies, Kroger, Michels, Putnam, and Vehle

1 FOR AN ACT ENTITLED, An Act to revise the definition of manufacturer as it relates to the
2 ownership of certain motor vehicle dealerships and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-6B-79 be amended to read as follows:

5 32-6B-79. In §§ 32-6B-79 to 32-6B-83, inclusive, the term, manufacturer, includes a
6 representative or a person or entity who is directly or indirectly controlled by, or is under
7 common control with, the manufacturer. For purposes of this section, a person or entity is
8 controlled by a manufacturer if the manufacturer has the authority directly or indirectly, by law
9 or by agreement of the parties, to direct or influence the management and policies of the person
10 or entity. However, the term, manufacturer, does not include any person or entity who
11 manufactures or assembles less than two hundred fifty motorcycles a year or who manufactures
12 or assembles trailers.

13 Section 2. Whereas, this Act is necessary for the support of the state government and its
14 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in



- 1 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

329M0213

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 118** - 02/07/2006

Introduced by: Senators Gant, Broderick, Duniphan, Earley, Gray, McCracken, and McNenny and Representatives Buckingham, Elliott, McCoy, Nelson, O'Brien, Peters, Rausch, Schafer, and Weems

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the type of personal
2 identification required when voting.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 12-18-6.1 be amended to read as follows:

5 12-18-6.1. When a the voter is requesting a ballot, the voter shall present a valid form of
6 personal identification. The personal identification that may be presented shall be either:

7 (1) A South Dakota driver's license or nondriver identification card;

8 (2) A passport or an identification card, including a picture, issued by an agency of the
9 United States government;

10 (3) A tribal identification card, including a picture; or

11 (4) ~~An~~ A current student identification card, including a picture, issued by a high school
12 or an accredited institution of higher education, including a university, college, or
13 technical school, ~~located within the State of South Dakota.~~



State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

958M0428

SENATE STATE AFFAIRS COMMITTEE ENGROSSED

NO. **SB 152** - 01/25/2006

Introduced by: Senators Schoenbeck, Abdallah, Apa, Bogue, Duenwald, Duniphan, Greenfield, Hansen (Tom), Hanson (Gary), Koskan, McCracken, and Moore and Representatives Hackl, Cutler, Davis, Dennert, Faehn, Fryslie, Garnos, Halverson, Hennies, Jerke, Klaudt, Koistinen, Michels, Nelson, Pederson (Gordon), Putnam, Rausch, Rave, and Tidemann

1 FOR AN ACT ENTITLED, An Act to appropriate money for the design and construction of
2 National Guard armories and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. There is hereby appropriated from the general fund the sum of one million seven
5 hundred eighty-nine thousand dollars (\$1,789,000), or so much thereof as may be necessary, and
6 twenty-one million one hundred twenty thousand dollars (\$21,120,000), or so much thereof as
7 may be necessary, of federal funds authority available to the Department of Military and
8 Veterans Affairs for the design and construction of an armory in Watertown.

9 Section 2. The amounts appropriated in section 1 of this Act are for the following purposes:

10 (1) Armory design, one hundred seventy-eight thousand nine hundred dollars (\$178,900)
11 from the general fund and one million nine hundred twenty thousand dollars
12 (\$1,920,000) from federal funds available to the Department of Military and Veterans
13 Affairs;



(2) Armory construction, one million six hundred ten thousand one hundred dollars (\$1,610,100) from the general fund and nineteen million two hundred thousand dollars (\$19,200,000) from federal funds available to the Department of Military and Veterans Affairs.

Section 3. There is hereby appropriated from the general fund the sum of five hundred fifty thousand dollars (\$550,000), or so much thereof as may be necessary, and three million three hundred thousand dollars (\$3,300,000), or so much thereof as may be necessary, of federal funds authority available to the Department of Military and Veterans Affairs for the design and construction of an armory in Mobridge.

Section 4. The amounts appropriated in section 3 of this Act are for the following purposes:

(1) Armory design, fifty-five thousand dollars (\$55,000) from the general fund and three hundred thousand dollars (\$300,000) from federal funds available to the Department of Military and Veterans Affairs;

(2) Armory construction, four hundred ninety-five thousand dollars (\$495,000) from the general fund and three million dollars (\$3,000,000) from federal funds available to the Department of Military and Veterans Affairs.

Section 5. In addition to the amounts appropriated in sections 1 and 3 of this Act, the Department of Military and Veterans Affairs may accept and expend for the purpose of this Act any funds obtained from gifts, contributions, or any other source if the acceptance and expenditure is approved in accordance with § 4-8B-10.

Section 6. The design and construction of this project shall be under the general charge and supervision of the Department of Military and Veterans Affairs. The money appropriated in sections 1 and 3 of this Act shall be paid on warrants drawn by the state auditor on vouchers approved by the adjutant general of the Department of Military and Veterans Affairs or the state

1 engineer.

2 Section 7. Any amounts appropriated in this Act not lawfully expended or obligated shall
3 revert in accordance with § 4-8-21.

4 Section 8. Whereas, this Act is necessary for the support of the state government and its
5 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
6 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2006

661M0199

SENATE ENGROSSED NO. **SB 185** - 01/31/2006

Introduced by: Senators Duenwald, Abdallah, Apa, Bartling, Duniphan, Earley, Gant, Gray, Greenfield, Hansen (Tom), Hanson (Gary), Kelly, Kloucek, Koskan, McNenny, Napoli, Olson (Ed), Schoenbeck, Smidt, Sutton (Dan), and Two Bulls and Representatives McCoy, Davis, Frost, Fryslic, Hackl, Hunt, Jerke, Kraus, Lange, Rausch, Rave, Schafer, Tornow, Van Etten, and Wick

1 FOR AN ACT ENTITLED, An Act to require inspections of certain facilities by the Department
2 of Health.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-23A-1 be amended by adding thereto NEW SUBDIVISIONS to read
5 as follows:

6 "Abortion facility," a place where abortions are performed;

7 "Department," the South Dakota Department of Health;

8 Section 2. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
9 as follows:

10 Except as provided by section 3 of this Act, no person may establish or operate an abortion
11 facility in this state without an appropriate license issued under this Act. Each abortion facility
12 shall have a separate license. No abortion facility license is transferrable or assignable.

13 Section 3. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
14 as follows:



1 The following facilities need not be licensed under this Act:

2 (1) A health care facility licensed pursuant to chapter 34-12; or

3 (2) The office of a physician licensed pursuant to chapter 36-4 unless the office is used
4 for performing abortions.

5 Section 4. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
6 as follows:

7 An applicant for an abortion facility license shall submit an application to the department
8 on a form prescribed by the department. The application shall be accompanied by a
9 nonrefundable license fee in an amount set by the department by rules promulgated pursuant to
10 chapter 1-26. The license fee may not exceed two thousand dollars. The application shall
11 contain evidence that there are one or more physicians on the staff of the facility who are
12 licensed by the State Board of Medical and Osteopathic Examiners. The department shall issue
13 a license if, after inspection and investigation, it finds that the applicant and the abortion facility
14 meet the requirements of this Act and the standards promulgated in rules adopted pursuant to
15 this Act. As a condition for renewal of a license, the licensee shall submit to the department the
16 annual license renewal fee set by rules promulgated pursuant to chapter 1-26.

17 Section 5. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
18 as follows:

19 The department may inspect an abortion facility at reasonable times as necessary to ensure
20 compliance with this Act. The department shall inspect an abortion facility before renewing the
21 facility's license.

22 Section 6. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
23 as follows:

24 Any fees collected under this Act shall be deposited in the abortion facility licensing fund

1 and are continuously appropriated to administer and enforce this Act.

2 Section 7. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 The department shall adopt rules pursuant to chapter 1-26 for the issuance, renewal, denial,
5 suspension, and revocation of a license to operate an abortion facility. The department shall
6 adopt, by rules promulgated pursuant to chapter 1-26, minimum standards to protect the health
7 and safety of a patient of an abortion facility. The rules shall establish minimum standards
8 regarding:

- 9 (1) Facility safety and sanitation;
- 10 (2) Qualifications and supervision of professional and nonprofessional personnel;
- 11 (3) Emergency equipment and procedures to provide emergency care;
- 12 (4) Medical records and reports;
- 13 (5) Procedure and recovery rooms;
- 14 (6) Infection control;
- 15 (7) Medication control;
- 16 (8) Quality assurance;
- 17 (9) Facility and laboratory equipment requirements, sanitation, testing, and maintenance;
- 18 (10) Information on and access to patient follow-up care; and
- 19 (11) Patient screening, assessment, and monitoring.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0673

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **SB 207** - 02/08/2006

Introduced by: The Committee on Health and Human Services at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to the sale,
2 purchasing, and possession of products containing pseudoephedrine or ephedrine.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-20D-1 be amended to read as follows:

5 34-20D-1. No retailer may sell, in a single transaction, more than two packages containing
6 pseudoephedrine or ephedrine as an active ingredient. For purposes of this chapter, the term,
7 retailer, means any person who sells merchandise at retail and from whom original packages of
8 nonprescription drugs are sold or taken to be sold at retail and who is licensed by the Board of
9 Pharmacy to sell nonprescription drugs. This restriction does not apply to any sale made
10 pursuant to a valid prescription drug order prescribed by a practitioner as defined in § 36-11-2
11 with appropriate authority. Any retailer or any employee of a retailer who sells packages
12 containing pseudoephedrine or ephedrine in violation of this section is guilty of a Class 1
13 misdemeanor.

14 Section 2. That § 34-20D-2 be amended to read as follows:

15 34-20D-2. No person may purchase, in a single transaction, more than two packages



1 containing pseudoephedrine or ephedrine as an active ingredient. This restriction does not apply
2 to purchases made with a valid prescription drug order prescribed by a practitioner as defined
3 in § 36-11-2 with appropriate authority. Any person who purchases packages containing
4 pseudoephedrine or ephedrine in violation of this section is guilty of a Class 1 misdemeanor.

5 Section 3. That § 34-20D-3 be amended to read as follows:

6 34-20D-3. Any retailer who offers for sale a product containing pseudoephedrine ~~as the~~
7 ~~product's sole~~ or ephedrine as an active ingredient shall display and offer the product for sale,
8 except as otherwise provided, behind a counter where the public is not permitted or in a locked
9 case so that a customer wanting access to the package must ask a store employee for assistance.
10 The retailer may display or offer for sale without restriction a product containing
11 pseudoephedrine ~~as the sole~~ or ephedrine as an active ingredient if the product is displayed using
12 any type of anti-theft device system including an electronic anti-theft device system that utilizes
13 a product tag and detection alarm which prevents the theft of the product. ~~This section does not~~
14 ~~apply to any package of a product containing pseudoephedrine as the product's sole active~~
15 ~~ingredient which is in liquid, liquid cap, or gel cap form or any package of a product containing~~
16 ~~pseudoephedrine as the product's sole active ingredient which is primarily intended for~~
17 ~~administration to children under twelve years of age, according to the product's label, regardless~~
18 ~~of whether the product is in liquid or solid form.~~

19 Section 4. That § 34-20D-4 be repealed.

20 ~~34-20D-4. Any retailer who offers for sale any combination product containing~~
21 ~~pseudoephedrine or ephedrine as an active ingredient, any package of a product containing~~
22 ~~pseudoephedrine as the product's sole active ingredient which is in liquid, liquid cap, or gel cap~~
23 ~~form or any package of a product containing pseudoephedrine as the product's sole active~~
24 ~~ingredient which is primarily intended for administration to children under twelve years of age,~~

1 ~~according to the product's label, regardless of whether the product is in liquid or solid form,~~
2 ~~shall display and offer such product for sale, except as otherwise provided, within twenty feet~~
3 ~~of a counter which allows the attendant to view the products in an unobstructed manner. A~~
4 ~~retailer may display or offer for sale without restriction any of the products listed in this section~~
5 ~~if the product is displayed using any type of anti-theft device system, including an electronic~~
6 ~~anti-theft device system that utilizes a product tag and detection alarm which prevents the theft~~
7 ~~of the product.~~

8 Section 5. That § 34-20D-5 be amended to read as follows:

9 34-20D-5. A retailer shall post notice at the location where a product containing
10 pseudoephedrine or ephedrine as an active ingredient is displayed or offered for sale stating the
11 following:

12 South Dakota law prohibits the sale or purchase of more than two packages containing
13 pseudoephedrine or ephedrine as an active ingredient unless sold or purchased with a valid
14 prescription drug order prescribed by a practitioner as defined in § 36-11-2 with appropriate
15 authority.

16 Section 6. That chapter 34-20D be amended by adding thereto a NEW SECTION to read
17 as follows:

18 If offering for sale a product containing pseudoephedrine or ephedrine as an active
19 ingredient, a retailer shall, before making such a sale, require and make a record of the
20 identification of the person purchasing the product containing pseudoephedrine or ephedrine.
21 For purposes of this section, the term, identification, means a document issued by a
22 governmental agency which contains a description of the person or a photograph of the person,
23 or both, and gives the person's date of birth, such as a driver's license, passport, or military
24 identification card. The retailer shall maintain the record of identification, including the

purchaser's name and date of birth. On August 1, 2006, and no later than the fifth day of every month thereafter, the retailer shall send any such records to the county sheriff of the county in which the sales occurred. No retailer may use or maintain the record for any private or commercial purpose or disclose the record to any person, except as authorized by law. The retailer shall disclose the record, upon request, to a law enforcement agency for a law enforcement purpose.

Section 7. That chapter 34-20D be amended by adding thereto a NEW SECTION to read as follows:

No person may possess, receive, or otherwise acquire more than nine grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base in any product, mixture, or preparation within any thirty-day period. This restriction does not apply to any quantity of product, mixture, or preparation obtained pursuant to a valid prescription drug order prescribed by a practitioner as defined in § 36-11-2 with appropriate authority.

Possession of more than nine grams of a drug product containing more than nine grams of ephedrine base, pseudoephedrine base, or phenylpropanolamine base constitutes a rebuttable presumption of the intent to use the product as a precursor to methamphetamine or another controlled substance. This rebuttable presumption does not apply to:

- (1) A retail distributor of drug products;
- (2) A wholesale drug distributor, or its agents;
- (3) A manufacturer of drug products, or its agents;
- (4) A pharmacist licensed by the Board of Pharmacy; or
- (5) A licensed health care professional possessing the drug products in the course of carrying out the profession.

Any violation of this section is a Class 1 misdemeanor.